

Members

Rep. David Niezgodski, Chairperson
Rep. Win Moses
Rep. Woody Burton
Rep. Rich McClain
Sen. Dennis Kruse
Sen. R. Michael Young
Sen. Karen Tallian
Sen. Robert Deig
Steve Meno
Kip White
Randall Novak
Matthew Buczolic



PENSION MANAGEMENT OVERSIGHT COMMISSION

Legislative Services Agency

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Authority: IC 2-5-12-1

MEETING MINUTES¹

Meeting Date: October 2, 2008
Meeting Time: 12:30 P.M.
Meeting Place: State House, 200 W. Washington St.,
Supreme Court Chamber
Meeting City: Indianapolis, Indiana
Meeting Number: 3

Members Present: Rep. David Niezgodski, Chairperson; Rep. Win Moses; Rep. Woody Burton; Sen. Dennis Kruse; Sen. R. Michael Young; Sen. Karen Tallian; Sen. Robert Deig; Steve Meno; Randall Novak; Matthew Buczolic.

Members Absent: Rep. Rich McClain; Kip White.

The third meeting of the Pension Management Oversight Commission was convened at 12:40 p.m. The Chair led in the Pledge of Allegiance. The fourth meeting of the Commission was approved for Wednesday, October 15, at 1:00 p.m. in the Supreme Court Chamber.

Factors Used in COLA Determinations

The Commission revisited this issue (item 14 from the September 11th meeting). Part of the discussion included putting the COLA in the two-year state budget. Phil Conklin of the Retired Indiana Public Employees Association (RIPEA) stated that including the COLA in the biennial budget is fine if there is corresponding language that requires the COLA to match the Social Security COLA. Mr. Conklin said that matching the Social Security COLA has not been financially possible over the past 10 to 15 years. He said that past Public Employees' Retirement Fund (PERF) COLAs have not matched the cost-of-living index. Mr. Conklin said that PERF does not require an appropriation because the COLA comes out of earnings. He said that he prefers the COLA to remain annual.

¹ Exhibits and other materials referenced in these minutes can be inspected and copied in the Legislative Information Center in Room 230 of the State House in Indianapolis, Indiana. Requests for copies may be mailed to the Legislative Information Center, Legislative Services Agency, 200 West Washington Street, Indianapolis, IN 46204-2789. A fee of \$0.15 per page and mailing costs will be charged for copies. These minutes are also available on the Internet at the General Assembly homepage. The URL address of the General Assembly homepage is <http://www.in.gov/legislative/>. No fee is charged for viewing, downloading, or printing minutes from the Internet.

Mr. Andy Thomas, Executive Director of the Indiana Retired Teachers Association (IRTA), provided a history of what other states do regarding COLAs (Exhibit 1). Mr. Thomas said that the IRTA wants a two-year COLA and a \$ 500 minimum monthly benefit (this request was part of a bill introduced by Senator Becker in the 2008 session). Mr. Thomas said that the COLA could be 1% or 2% as in the past, or it could be tied to the Consumer Price Index (CPI) or the Social Security COLA. Mr. Thomas called attention to other states' post-retirement increases (page 30 of Exhibit 1). He said that the IRTA wants the largest COLA possible. Mr. Thomas also said that he understands that this is the first step in a long process.

Mr. Steve Buschmann, representing the Indiana State Police Alliance, addressed the Commission. Mr. Buschmann told the Commission that he is talking about the 1987 State Police Plan. He said that the past COLA amounted to \$39 in 1990, 2007, and 2008. He said that he likes building the COLA into the budget. Mr. Buschmann also wants to retain the limiting COLA factors. He said that there is no Social Security for state troopers. Mr. Buschmann would like to see the COLA percentage based on length of retirement. He suggested a cap on the COLA with the cap based on the percent increase in salary of a 25-year trooper. He said that he is not asking for a 13th check, only a percentage increase.

Representative Niezgodski said that the market downturn may affect our ability to act on these proposals.

Age Discrimination

Mr. Paul Chase, Associate State Director for Public Policy for the American Association of Retired Persons (AARP), addressed the Commission. Mr. Chase distributed Exhibit 2 which contained copies of his PowerPoint presentation (The Case for Strengthening Age Discrimination in Indiana). Mr. Chase said that the starting point is HB 1034 of the 2008 session. He said that HB 1034 passed the House 72-34. The Senate heard the bill but the Senate committee did not vote. Mr. Chase said the employers need older workers to avoid labor shortages. He said that is good news because older workers want to remain in the workforce. Mr. Chase said that an AARP survey confirms age discrimination in Indiana.

Mr. Chase said that Indiana has a weak discrimination law. Mr. Chase said that violations are referred to the Indiana Department of Labor (DOL) and not the Indiana Civil Rights Commission (ICRC). Mr. Chase's presentation compared enforcement by the DOL, the ICRC, and the Equal Employment Opportunity Commission (EEOC). Eighty-five percent of Indiana employees do not have meaningful remedies for age discrimination, according to Mr. Chase. He said that transferring jurisdiction to the ICRC will not cause undue hardships on employers because employers are already subject to ICRC jurisdiction for other categories. He said age discrimination does not add much to the mix of categories. Lastly, Mr. Chase said this issue is one of fundamental fairness.

Mr. Webster Smith, EEOC, Deputy Director of the Indianapolis office (district office for Indiana, Kentucky, Michigan, Ohio, and Illinois), addressed the Commission. Mr. Webster used a PowerPoint presentation (Exhibit 3). The EEOC enforces the Age Discrimination in Employment Act (ADEA). Mr. Webster said the EEOC does not take sides, but gathers information and makes recommendations. Employers with 20 or more employees are covered by the EEOC. Exempt categories include elected officials, public safety personnel, qualified executives, and tenured college and university professors. Mr. Webster said the ICRC has a work-sharing arrangement with the EEOC to investigate complaints. Remedies for resolution of complaints include the following: (1) monetary damages which include back pay, front pay, liquidated damages, interest, court costs, and attorneys' fees; and (2) liquidated damages which include employer liability where willful violation occurred. Liquidated damages represent double the amount assessed against the employer.

Mr. Webster said that top seven ADEA issues are discharge, harassment, discipline, hiring, promotion, layoff, and demotion. He commented that Indiana, of all the surrounding states, is the only state that does not mirror the federal law regarding discrimination.

Ms. Lettie Oliver, representing the American Federation of State County and Municipal Employees (AFSCME) Council # 62, requested that the age discrimination process be part of the ICRC. She said that she refers her members to the EEOC, but would prefer going to the state. She said that her members need age discrimination protections. In response to a Commission question, Ms. Oliver said that her members continue to work into their 60s and 70s because of the cost of health care and prescriptions, and the like.

Ms. Nancy Pappas of the Indiana State Teachers Association (ISTA) told the Commission that child bearing removes women from the labor market. She said that it is easier and cheaper to resolve the issue on the EEOC level as opposed to going to court. Ms. Pappas also said that she supports a two-year COLA in the state budget. In response to a Commission question, Ms. Pappas said that she did not know the cost of offering supplemental health insurance, but that no doubt there will be a fiscal impact. Ms. Pappas said that teachers who are employed full-time after retirement receive health insurance.

PERF Vesting Ten to Eight Years

Mr. Doug Todd, actuary for PERF, distributed Exhibit 4 which illustrated the fiscal impact on a sample of PERF political subdivisions. Mr. David Larson of the Indiana State Employees Association said that he does not support reducing the vesting period. He said that he would rather use the money to fund retirees who are long-term public employees and raise the COLA, along with health benefits. Ms. Lettie Oliver of AFSCME Council # 62 said that she supports reducing the vesting period.

Increase PERF Multiplier

Mr. Phil Conklin of RIEPA distributed Exhibit 5, which is the fiscal impact of allowing a PERF participant to purchase, upon retirement, an additional PERF employer pension amount to be included with the PERF employer pension amount based on a 1.1% multiplier, with the participant's ASA balance. The purchase would be at full actuarial equivalence, but the ASA balance would be subsidized by assuming it is 10% greater than it actually is for purposes of the purchase only. Currently, the ASA can be used to purchase an annuity or take the ASA in a lump sum. Fifty percent of retirees take the ASA as a lump sum.

Prosecuting Attorneys' Retirement Fund (PARF)

Mr. Steve Johnson, Executive Director of the Prosecuting Attorneys Council, addressed the Commission. Mr. Johnson said that the goal is to equalize the Judges' Retirement System and the PARF. Mr. Doug Todd, actuary for PARF, discussed the PARF increase. Mr. Todd said that the Judges' Retirement System is on a pay-as-you-go basis, while the PARF is prefunded. PARF includes prosecutors, chief deputies, and additional state-paid deputy prosecutors in locations which have a state prison facility.

Ms. Amy Flack representing the Prosecuting Attorneys Council said the most appropriate way to fund this change was to increase the court filing fees by \$2. She told the Commission that she would provide them with information on court filing fees from surrounding states and that this would show that Indiana has lower filing fees than surrounding states.

In response to a Commission question about combining the PARF and the Judges' Retirement System, Mr. Todd said that PARF has an offset with PERF benefits for prosecutors. He also

said that there are other problems with combining the funds and that, while there are many hurdles, it could be done.

1977 Police Officers' and Firefighters' Pension and Disability Fund Minimum COLA

This issue was discussed at the September 11th meeting of the Commission. The Commission requested further discussion on the matter. Mr. Doug Todd, actuary for the 1977 Police Officers' and Firefighters' Pension and Disability Fund, discussed a 1% and a 1.5% COLA. Mr. Todd distributed Exhibit 6. Mr. Todd commented that there have been only two times in the history of the 1977 Police Officers' and Firefighters' Pension and Disability Fund that the COLA was less than 1.5%. He said that essentially there would be no fiscal impact with a minimum COLA of 1%. It has never been that low. In response to a Commission question, Mr. Todd said that the employer contribution rate was reduced from 21% to 19.5% because of very good investment returns. This took place late last year. Mr. Tom Miller of the Indiana Professional Firefighters' Union told the Commission that the minimum COLA protects retirees.

1977 Police Officers' and Firefighters' Pension and Disability Fund Surviving Spouse Benefit Increase

This issue was discussed at the September 11th meeting of the Commission. The Commission requested further discussion on the matter. Mr. Todd summarized the fiscal impact of this proposal which was distributed at the September 11th meeting. Increasing the disability benefit from 60% to 75% would result in an increased annual cost of \$8.2 M, while increasing the disability benefit from 60% to 80% would result in an increased annual cost of \$10 M. Mr. Todd said that the costs of this proposal are to local units and not the state.

Line of Duty Disability 1977 Police Officers' and Firefighters' Pension and Disability Fund

This is a new issue, and Mr. Leo Blackwell of the Indiana Fraternal Order of Police and also speaking on behalf of the Indiana Professional Firefighters' Union discussed this issue. Mr. Blackwell told the Commission that there is a recalculation of a Class 1 disability benefit at age 52 to a regular retirement benefit. This means a member's benefit is reduced from 79.2% of a First Class Officer's salary to 50% of that salary. He mentioned that this issue was brought to light by the injury of an Evansville firefighter. The Advisory Committee for the 1977 Police Officers' and Firefighters' Pension and Disability Fund is waiting on receipt of a Private Letter Ruling from the Internal Revenue Service (IRS) to determine if the recalculation is a taxable event. Preliminary Draft (PD) 3122 (Exhibit 8), prepared for Representative Dennis Avery, was distributed to the Commission. PD 3122 eliminates the recalculation of the Class 1 disability benefit for life. Mr. Steve Barley, Chief Operating Officer of PERF, said that we need to go back to the IRS. Representative Niezgodski requested that the parties look at this issue again regarding the higher benefit and the taxability issue.

Matt Brase, Indiana Association of Cities and Towns (IACT)

At the end of the September 11th meeting, Mr. Brase was asked to comment on the impact of the various proposals considered by the Commission which may impact local units. Mr. Brase distributed Exhibit 9. Mr. Brase said that IACT cannot support or even rank any unfunded mandates on Indiana cities and towns due to the current economic climate that local governments are experiencing. He urged members of the Commission to support only those legislative agenda items which do not add costs or unfunded mandates to municipalities.

Chaplain Death Benefit

Mr. James Ridley of the Indiana Professional Firefighters' Union requested the definition of

chaplain be amended. Mr. Ridley said that he does not know of any full-time chaplains in the state. He said that Fire and Police Chiefs appoint chaplains.

Military Service Credit for the 1977 Police Officers' and Firefighters' Pension and Disability Fund

Mr. Ridley requested the same option which is available to PERF members to purchase at full actuarial cost up to two years of military service be available to members of the 1977 Police Officers' and Firefighters' Pension and Disability Fund. The purchase cannot be used for vesting purposes and cannot be used to add additional years of service beyond 32 years.

Report from PERF and TRF and the Impact of Current Economic Conditions

Mr. Terry Magid, Executive Director of PERF, speaking on behalf of PERF and TRF said that the current economic conditions have not compromised in any way the ability of either fund to meet its obligations. There have been recent losses, but the portfolios for both are diversified, with a focus on the long term. For September, the Standard and Poor 500 lost 8.91%, while PERF declined 8.46%, and TRF was down 7.61%. Mr. Magid said that performance is not measured in one-month increments. He said that asset allocation is the primary way to affect fund value. He said that PERF has 80 investment managers. Mr. Magid told the Commission that investment managers are monitored to see if they are meeting their targets.

The Chair announced the next meeting would be October 15th at 1:00 p.m. in the Supreme Court Chamber. He requested that any member who wanted a preliminary draft to please contact LSA by October 6th with the request. The Indiana State Employees Association proposal will be heard at the October 15th meeting.

The Chair adjourned the meeting at 3:15 p.m.